

SENATE BILL No. 82

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-10.2-4-1; IC 5-10.3-6-8.9.

Synopsis: Minimum retirement age. Eliminates the requirement that members of the public employees' retirement fund (PERF) who retire under the "rule of 85" must be at least 55 years of age.

Effective: July 1, 2009.

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January 7, 2009, read first time and referred to Committee on Pensions and Labor.

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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

SENATE BILL No. 82

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-10.2-4-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) This subsection
3 applies to:

4 (1) members of the public employees' retirement fund who retire
5 before July 1, 1995; and

6 (2) members of the Indiana state teachers' retirement fund who
7 retire before May 2, 1989.

8 A member who has reached age sixty-five (65) and has at least ten (10)
9 years of creditable service is eligible for normal retirement.

10 (b) This subsection applies to members of the Indiana state teachers'
11 retirement fund who retire after May 1, 1989, and to members of the
12 public employees' retirement fund who retire after June 30, 1995, **and**
13 **before July 1, 2009**, except as provided in section 1.7 of this chapter.

14 A member is eligible for normal retirement if:

15 (1) the member is at least sixty-five (65) years of age and has at
16 least ten (10) years of creditable service;

17 (2) the member is at least sixty (60) years of age and has at least

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1 fifteen (15) years of creditable service; or
 2 (3) the member's age in years plus the member's years of service
 3 is at least eighty-five (85) and the member is at least fifty-five
 4 (55) years of age.

5 **(c) This subsection applies to members of the public employees'**
 6 **retirement fund who retire after June 30, 2009, except as provided**
 7 **in section 1.7 of this chapter. A member is eligible for normal**
 8 **retirement if:**

9 **(1) the member is at least sixty-five (65) years of age and has**
 10 **at least ten (10) years of creditable service;**

11 **(2) the member is at least sixty (60) years of age and has at**
 12 **least fifteen (15) years of creditable service; or**

13 **(3) the member's age in years plus the member's years of**
 14 **service is at least eighty-five (85).**

15 ~~(c)~~ **(d)** A member who has reached age fifty (50) and has at least
 16 fifteen (15) years of creditable service is eligible for early retirement
 17 with a reduced pension.

18 ~~(d)~~ **(e)** A member who is eligible for normal or early retirement is
 19 entitled to choose a retirement date on which the member's benefit
 20 begins if the following conditions are met:

21 (1) The application for retirement benefits and the choice of the
 22 date is filed on a form provided by the board.

23 (2) The date must be after the cessation of the member's service
 24 and be the first day of a month.

25 (3) The retirement date is not more than six (6) months before the
 26 date the application is received by the board. However, if the
 27 board determines that a member is incompetent to file for benefits
 28 and choose a retirement date, the retirement date may be any date
 29 that is the first of the month after the time the member became
 30 incompetent.

31 SECTION 2. IC 5-10.3-6-8.9, AS ADDED BY P.L.158-2006,
 32 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2009]: Sec. 8.9. (a) This section applies when certain
 34 employees of the state in particular departmental, occupational, or
 35 other definable classifications are terminated from employment with
 36 the state as a result of:

37 (1) a lease or other transfer of state property to a nongovernmental
 38 entity; or

39 (2) a contractual arrangement with a nongovernmental entity to
 40 perform certain state functions.

41 (b) The governor shall request coverage under this section from the
 42 board whenever an employee of the state is terminated as described in

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1 subsection (a).

2 (c) The board must approve a request from the governor under
3 subsection (b) unless approval violates subsection (k), federal or state
4 law, or the terms of the fund.

5 (d) As used in this section, "early retirement" means a member is
6 eligible to retire with a reduced pension under IC 5-10.2-4-1, because
7 the member:

- 8 (1) is at least fifty (50) years of age; and
- 9 (2) has at least fifteen (15) years of creditable service.

10 (e) As used in this section, "normal retirement" means:

11 **(1) for a member who retires before July 1, 2009**, a member is
12 eligible to retire under IC 5-10.2-4-1, because:

- 13 ~~(1)~~ **(A)** the member is at least sixty-five (65) years of age and
14 has at least ten (10) years of creditable service;
- 15 ~~(2)~~ **(B)** the member is at least sixty (60) years of age and has
16 at least fifteen (15) years of creditable service; or
- 17 ~~(3)~~ **(C)** the member's age in years plus the member's years of
18 service is at least eighty-five (85), and the member is at least
19 fifty-five (55) years of age; or

20 **(2) for a member who retires after June 30, 2009, a member**
21 **is eligible to retire under IC 5-10.2-4-1, because:**

- 22 **(A) the member is at least sixty-five (65) years of age and**
23 **has at least ten (10) years of creditable service;**
- 24 **(B) the member is at least sixty (60) years of age and has at**
25 **least fifteen (15) years of creditable service; or**
- 26 **(C) the member's age in years plus the member's years of**
27 **service is at least eighty-five (85).**

28 (f) The withdrawal of the employees described in subsection (a)
29 from the fund is effective on a termination date established by the
30 board. The board may not establish a termination date that occurs
31 before all of the following have occurred:

- 32 (1) The governor has requested coverage under this section and
33 provided written notice of the following to the board:
- 34 (A) The intent of the state to terminate the employees from
35 employment.
- 36 (B) The names of the terminated employees as of the date that
37 the termination is to occur.
- 38 (2) The expiration of a thirty (30) day period following the filing
39 of the notice with the board.
- 40 (3) The state complies with subsections (g) and (i).

41 (g) A member who:

- 42 (1) is an employee of the state described in subsection (a) with at

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1 least twenty-four (24) months of creditable service as of the date
2 of the notice under subsection (f); and

3 (2) is listed in the notice under subsection (f);

4 is vested in the pension portion of the member's retirement benefit. The
5 state must contribute to the fund the amount the board determines is
6 necessary to completely fund the vested benefit. The contribution by
7 the state must be made in a lump sum or in a series of payments
8 determined by the board. The benefit for the member shall be
9 computed under IC 5-10.2-4-4 using the member's actual years of
10 creditable service.

11 (h) A member who is covered by subsection (g) and who is at least
12 sixty-five (65) years of age as of the date of the notice under subsection
13 (f) may elect to retire under IC 5-10.2-4-1 even if the member has less
14 than ten (10) years of service. The benefit for the member shall be
15 computed under IC 5-10.2-4-4 using the member's actual years of
16 creditable service.

17 (i) A member who is covered by subsection (f) and who, as of the
18 date of the notice under subsection (f), is less than twenty-four (24)
19 months from being eligible for normal or early retirement under
20 IC 5-10.2-4-1 may elect to retire by purchasing the service credit
21 needed for retirement under the following conditions:

22 (1) The state shall contribute to the fund an amount determined
23 under IC 5-10.2-3-1.2 and payable from the sources described in
24 subsection (j) sufficient to pay the member's contributions
25 required for the member's purchase of the service credit the
26 member needs to retire.

27 (2) The maximum amount of creditable service that the state may
28 purchase for a member under this subsection is twenty-four (24)
29 months.

30 (3) The benefit for the member shall be computed under
31 IC 5-10.2-4-4 using the member's actual years of creditable
32 service plus all other service for which the fund gives credit,
33 including the creditable service purchased under this subsection.

34 (j) The amounts that the state is required to contribute to the fund
35 under subsection (i) must come from the following sources:

36 (1) If the state receives monetary payments under the lease or
37 contractual arrangement described in subsection (a), the proceeds
38 of the monetary payments received by the state. The state may not
39 require, as a condition of the transaction to transfer state property
40 or have certain state functions performed by a nongovernmental
41 entity, that the nongovernmental entity directly or indirectly pay
42 the amounts that the state is required to contribute under

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- 1 subsection (i).
2 (2) If the state does not receive any monetary payments under the
3 lease or contractual arrangement described in subsection (a), any
4 remaining appropriations made to the state department, agency,
5 or other entity terminating the employees described in subsection
6 (a).
7 (3) If the sources described in subdivisions (1) and (2) do not
8 fully fund the amounts that the state is required to contribute to
9 the fund under subsection (i), the board shall request that the
10 general assembly appropriate the amount necessary to fully fund
11 the state's required contribution under subsection (i) in the next
12 biennial state budget.
13 (k) The board shall evaluate each withdrawal under this section to
14 determine if the withdrawal affects the fund's compliance with Section
15 401(a) of the Internal Revenue Code of 1954, as in effect on September
16 1, 1974. The board may deny an employee permission to withdraw if
17 the denial is necessary to achieve compliance with Section 401(a) of
18 the Internal Revenue Code of 1954, as in effect on September 1, 1974.

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